

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

IN THE MATTER OF THE NEBRASKA)
PUBLIC SERVICE COMMISSION, ON ITS)
OWN MOTION, TO MAKE)
ADJUSTMENTS TO THE UNIVERSAL)
SERVICE FUND MECHANISM)
ESTABLISHED IN NUSF-26)

APPLICATION No. NUSF-50

IN THE MATTER OF THE COMMISSION,)
ON ITS OWN MOTION, SEEKING TO)
DETERMINE THE LEVEL OF THE FUND)
NECESSARY TO CARRY OUT THE)
NEBRASKA UNIVERSAL SERVICE FUND)
ACT.)

APPLICATION No. NUSF-4

**PREFILED TESTIMONY
OF
DALE MUSFELDT**

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. My name is Dale Musfeldt. My business address is 519 NE 24th Court, Ankeny, Iowa 50021.

Q. BY WHOM AND IN WHAT CAPACITY ARE YOU EMPLOYED?

A. I am presently an independent telecommunications consultant and am periodically retained by companies such as Nebraska Technology & Telecommunications, Inc. ("NT&T") to provide analysis and advice on telecommunications issues. I have been retained by NT&T in this proceeding to analyze the proposal of the Nebraska Public Service Commission ("Commission") to significantly alter the structure of the calculation of NUSF payments.

Q. PLEASE BRIEFLY DESCRIBE YOUR WORK EXPERIENCE.

A. I have some 40 years of experience in the telecommunications industry. I first joined NT&T in June 1998, when I was hired by NT&T to serve as its Vice President of Operations. In this capacity I was responsible for, among other things, developing cost models for the implementation

1 of a facilities-based business model. In April 2000 I became the company's CEO and had overall
2 responsibility for the operations of NT&T. I remained in that position until I voluntarily retired on
3 September 30, 2004, and began consulting on telecommunications matters on a part-time basis.
4 Prior to joining NT&T, I worked for the former U.S. West Communications and its predecessors for
5 32 years. My last assignment there was manager of outside plant planning for Iowa, Nebraska and
6 South Dakota.

7 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

8 A. The purpose of my testimony is to comment on the Commission proposal set forth in its
9 Order dated August 29, 2006, to dramatically alter the structure of the calculation of NUSF
10 payments, and to describe the impact that this proposal would have on NT&T and competition in
11 the State of Nebraska.

12 **Q. HAVE YOU REVIEWED THE COMMISSION'S PROPOSAL ISSUED ON AUGUST**
13 **29, 2006?**

14 A. Yes.

15 **Q. HAVE YOU REVIEWED THE NUSF-50 MODEL AND ACCOMPANYING DATA**
16 **THAT IS SUBJECT TO THE PROTECTIVE ORDER ENTERED IN THIS**
17 **DOCKET?**

18 A. Yes.

19 **Q. BASED UPON YOUR REVIEW OF THESE ITEMS, HAVE YOU REACHED ANY**
20 **CONCLUSIONS AND OPINIONS AS TO THE LIKELY IMPACT OF THE**
21 **COMMISSION'S PROPOSAL IF IT IS ADOPTED AS PROPOSED?**

22 A. Yes.

1 **Q. WHAT ARE YOUR CONCLUSIONS AND OPINIONS?**

2 A. First, a little history is in order. As most will recall, the application in NUSF-26 was
3 captioned “In the Matter of the Nebraska Public Service Commission, on its Own Motion, Seeking
4 to Establish a **Long-Term** Universal Service Funding Mechanism.” (emphasis added). After over
5 three (3) years of detailed investigation and analysis, on November 3, 2004, the Commission issued
6 its Findings and Conclusions in NUSF-26, adopting what the Commission called a “permanent”
7 funding mechanism and a transitional mechanism to accompany it. Unfortunately, the
8 Commission’s Proposal seeks to significantly alter the structure of the calculation of NUSF
9 payments just two years after the supposedly “permanent” mechanism was adopted.

10 Obviously the Commission must react to a changing regulatory and technological
11 environment. Nevertheless, it is important to bear in mind that Section 86-323(5) of the Nebraska
12 Revised Statutes requires that the NUSF mechanisms adopted by the Commission be “predictable.”

13 **Q. IF ADOPTED, WILL THE PROPOSAL AFFECT THE ABILITY OF CLECs LIKE**
14 **NT&T TO DO BUSINESS IN NEBRASKA AND, IF YES, HOW SO?**

15 A. There are valid policy reasons why the Nebraska Legislature adopted “predictability” as a
16 guiding principle for the NUSF. Companies such as NT&T develop and implement long-range
17 business plans that are based in part on the levels of universal service support. A lack of
18 predictability with respect to the funding and operation of the NUSF damages the ability of
19 companies like NT&T to compete and offer Nebraska customers the services they desire. This, in
20 turn, puts consumers at risk. That is hardly the intended result of the NUSF.

21 With the adoption of the NUSF-26 order and other orders in related dockets, the Commission
22 gave NT&T and other CLECs a directive to go out and offer the benefits of competition to rural
23 Nebraska. Based upon the commitments made by the Commission to establish a “long-term” and
24 “permanent” NUSF mechanism, NT&T did just that. As of August 2006 NT&T had nearly 25,000
25 access lines in Qwest exchanges, approximately 18,000 of which are in Qwest’s Zone 2 and 3.
26 NT&T had over 9,000 access lines in Windstream exchanges as of August 2006, the vast majority
27 of which exist outside of Lincoln. Given the extraordinarily high loop rates that NT&T is forced
28 to pay Qwest and Windstream, it would have been cost prohibitive to offer service to the vast

majority of these customers without the benefit of NUSF support. My review of this matter reveals that, if adopted, the Proposal would result in the elimination of NUSF support for all Windstream exchanges in Nebraska beginning in 2007, and a \$14.5 million reduction for Qwest over a two-year period. Without this NUSF support, NT&T and other competitive carriers cannot continue to provide service to customers in these exchanges, and rural Nebraska consumers will be denied the right to choose their local telephone company.

Q. AS A CONSULTANT, WOULD YOU MAKE ANY RECOMMENDATIONS TO CLECs LIKE NT&T IF THE PROPOSAL IS ADOPTED AND, IF SO, WHAT?

A. If the Proposal is adopted, it is my recommendation that NT&T promptly begin to exit from doing business in Zones 2 and 3 in Qwest exchanges and all non-Lincoln Windstream exchanges in Nebraska. With Zone 3 loop rates for Qwest at \$62.49, it is impossible to do business without NUSF support, and NT&T will suffer significant losses as a result of the Proposal. Thus, these customers—all of whom chose to have NT&T as their local telephone company—will be forced to return to their carrier of “non-choice” as a result of the Commission’s Proposal.

Q. BASED UPON YOUR EXPERIENCE, CAN THE WHOLESALE TRANSFER OF END USER/CUSTOMERS FROM THE CLEC BACK TO THE ILEC BE ACCOMPLISHED IN AN EXPEDITED MANNER?

A. No. It is quite common for interconnection agreements or ILECs to limit the number of orders that may be submitted by a CLEC to the LEC per week or per month. For example, it is my understanding that Windstream currently limits NT&T to processing a maximum of 75 orders per day. If the Proposal is adopted, it will be my recommendation that NT&T promptly commence filing orders to transfer the approximately 18,000 customers in Qwest’s Zone 2 and 3 exchanges back to Qwest, and the vast majority of its 9,000 non-Lincoln Windstream customers back to Windstream. This process will take a significant amount of time to accomplish.

1 **Q. BASED UPON THESE CONCERNS AND THE LIKELIHOOD OF WHAT THE**
2 **PROPOSAL WOULD DO TO COMPETITION IN NEBRASKA IF ADOPTED, DO**
3 **YOU RECOMMEND ANY CHANGES TO THE NUSF SURCHARGE?**

4 A. Yes. As the Commission knows, on October 1, 2005, the NUSF surcharge was reduced
5 from 6.95 percent to 5.75 percent. Obviously the current NUSF shortfalls result largely from this
6 surcharge reduction. It is my opinion that the NUSF surcharge was prematurely decreased without
7 a comprehensive study of the likely impact that this decrease would have on universal service and
8 competition in Nebraska, or an understanding of the impact of anticipated universal service decisions
9 forthcoming from the Federal Communications Commission. Consequently, it is my opinion and
10 recommendation that the NUSF surcharge be returned to 6.95 percent.

11 **Q, IN THE EVENT THE COMMISSION DETERMINES THAT IT WILL**
12 **IMPLEMENT ONLY A SLIGHT INCREASE IN THE NUSF SURCHARGE OR NO**
13 **INCREASE AT ALL, ARE THERE ANY AMELIORATIVE STEPS THE**
14 **COMMISSION CAN TAKE TO LESSEN THE IMPACT ON CLECs LIKE NT&T**
15 **AND THEIR CUSTOMERS AND, IF SO, WHAT?**

16 A. In the event a surcharge increase does not occur and appropriate steps are not taken by the
17 Commission to require Qwest's and Windstream's loop rates to be cost-based, NT&T would
18 strongly encourage the Commission to explore some alternatives that could lessen the anti-
19 competitive, anti-consumer impact of the Proposal.

20 First, the Commission should adopt a minimum of a three (3) year transition period to phase-
21 in its NUSF reductions so as to permit CLECs such as NT&T with sufficient time to return the
22 customers to their carrier of non-choice in a manner that causes the least inconvenience to the
23 customer.

24 Second, in order to maintain some level of competition in Windstream and Qwest rural
25 exchanges, the Commission should strongly consider adopting an alternative proposal as it relates
26 to CLECs while at the same time achieving a significant reduction in NUSF support level. Attached
27 hereto as Exhibit "A" and incorporated herein by this reference is a confidential spreadsheet detailing
28 this alternative proposal. This spreadsheet is hereby designed as "CONFIDENTIAL—SUBJECT TO

1 PROTECTIVE ORDER” entered in this proceeding. As noted, this alternative proposal would
2 utilize an effective loop rate for Zones 2 and 3 based upon the effective Zone 1 loop rates. As noted
3 in Exhibit “A,” this alternative proposal would result in a 16 percent decrease in the amount of
4 NUSF support NT&T will receive, while at the same time creating an environment where at least
5 some meaningful competition can occur in rural Nebraska.
6

7 **Q. DO YOU HAVE ANY OTHER COMMENTS REGARDING THE PROPOSAL?**

8 A. Yes. Our Legislature has declared in Section 86-801 of the Nebraska Revised Statutes that
9 it is the policy of this state to promote fair competition in all Nebraska telecommunications markets.
10 Our Legislature has also declared that the NUSF mechanisms adopted by the Commission must be
11 “predictable.” NEB.REV.STAT. §86-323(5). When considering the issues raised in this Docket, the
12 Commission must adopt those policies that not only facilitate local telecommunications competition
13 in all markets throughout Nebraska, but those that help the Commission reach the goal of NUSF
14 predictability mandated by the Nebraska Legislature. The Proposal as currently drafted fails to
15 further either of these mandated goals.

16 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

17 A. Yes.

DATED: September 29, 2006

NEBRASKA TECHNOLOGY &
TELECOMMUNICATIONS, INC.,

By. 

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Exhibit “A”

CONFIDENTIAL

Subject to Protective Order Entered in NUSF 50/NUSF 4